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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/335,032	06/16/1999	VICTOR E. VELCULESCU	01107.78572	5999
75	590 12/16/2003		EXAM	INER
BANNER AN	D WITCOFF LTD		MARTINEL	LL, JAMES
1001 G STREET NW WASHINGTON, DC 200014597			ART UNIT	PAPER NUMBER
			1631	

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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		Applica	tion No.	Applicant(s)			
		09/335,	032	VELCULESCU ET AL.			
	Office Action Summary	Examin	er	Art Unit			
			Martinell	1631			
Period fo	The MAILING DATE of this commun r Reply	ication appears on t	he cover sheet with the	correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status 1.\⊠	Responsive to communication(s) file	ed on <i>01 October 2</i> 0	003.				
•	·	2b)⊠ This action is					
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Dispositi	on of Claims						
5)□ 6)⊠ 7)□	 4) ☐ Claim(s) 32,35-37 and 45-50 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 32, 35-37, and 45-50 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement. 						
	ion Papers						
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
_	under 35 U.S.C. §§ 119 and 120						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. a) The translation of the foreign language provisional application has been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification Data Sheet. 37 CFR 1.78.							
2) Not	nt(s) ice of References Cited (PTO-892) ice of Draftsperson's Patent Drawing Review rmation Disclosure Statement(s) (PTO-1449)	(PTO-948) Paper No(s)	4) Interview Summ. 5) Notice of Informa 6) Other:	ary (PTO-413) Paper No(s) al Patent Application (PTO-152)			

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Claims 38-42 were not mentioned in the amendment filed October 1, 2003. It is noted that claims 38-42 were cancelled in the amendment filed May 13, 2002.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 32, 35-37, and 45-50 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. This rejection is repeated for reasons already of record (e.g., Office action mailed February 3, 2003, page 2). Applicants' arguments (response filed October 1, 2003, pages 4-6) are not convincing because the claims are drawn to 10-mers and not 18-mers and longer sequences as applicants argue. SEQ ID NO: 71 is a 10-mer with the sequence cttctctttt.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32, 35-37, and 45-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are vague and indefinite because SEQ ID NO: 71 has fewer than 18 nucleotides. SEQ ID NO: 71 is a 10-mer with the sequence cttctctttt. Each of the claims requires an 18-mer or longer sequence, so it is unclear what applicants consider their invention to be.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (703) 308-0296. The fax phone number for Examiner Martinell's desktop workstation is (703) 746-5162. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to james.martinell@uspto.gov. Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (703) 305-4028.

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PLEASE NOTE THE NEW FAX NUMBER

The fax phone number for the organization where this application or proceeding is assigned is

(703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should

be directed to the receptionist whose telephone number is (703) 308-0196.

AFTER ABOUT JANUARY 12, 2004 USPTO OFIICES WILL BE MOVED

Offices of the USPTO will soon be moved. After the date in the header to this section Examiner

Martinell may be reached at (571) 272-0719 and the fax phone number for his desktop workstation will

be (571) 273-0719. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael Woodward, can be reached on (571) 272-0722.

James Martinell, Ph.D.
Primary Examiner

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